

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STEPHEN SHABEN,

Plaintiff,

v.

UNION PACIFIC RAILROAD CO., et al.,

Defendants.

No. C04-5536 RBL

ORDER DENYING
DEFENDANTS' MOTION
FOR CERTIFICATION AS
FINAL JUDGMENT OR
FOR INTERLOCUTORY
APPEAL

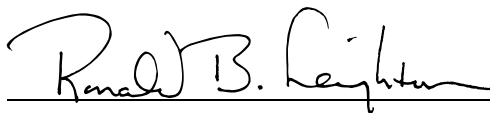
This matter is before the court on Defendant Union Pacific's Motion for Certification of the Order dismissing its counterclaim as a final judgment under Fed. R. Civ. P. 54(b), or alternatively, for a certification under 28 U.S.C. §1292(b) for an interlocutory appeal. The Motion is contained in Defendants' Opposition [Dkt. #31] to the Plaintiff's Motion to Dismiss the Counterclaim.

The Court has reviewed and considered the Defendants' arguments in favor of such certification. The court does not agree that the controlling law in this area is unsettled, despite the Defendants' belief to the contrary. The court does not believe that justice would be served by forcing the plaintiff to await the result of the Defendants' attempt to seek a change, refinement, or clarification of the law of indemnity in the Ninth Circuit.

For that reason, the court **DECLINES** to certify the issue for immediate appeal under either Fed. R.

1 Civ. P. 54(b) or 28 U.S.C. §1292(b).

2 DATED this 27th day of July, 2005

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE
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